

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LATASHA MCLEMORE,

Plaintiff,

v.

**UNIVERSITY HOSPITALS HEALTH
SYSTEM, INC., et al.,**

Defendants.

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DEFENDANTS' NOTICE OF REMOVAL OF CIVIL ACTION TO FEDERAL COURT

PLEASE TAKE NOTICE THAT Defendants University Hospitals Health System, Inc. ("UH"), Kimberly J. Schnupp ("Schnupp"), and Nancy W. Lempke ("Lempke") (collectively, "Defendants"), by and through undersigned counsel, hereby remove this action from the Cuyahoga County Court of Common Pleas to the United States District Court for the Northern District of Ohio, Eastern Division. This removal is based on federal question jurisdiction pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446. In support of the removal of this action, Defendants allege as follows:

1. On December 22, 2021, Plaintiff Latasha McLemore ("Plaintiff") filed a Complaint in the Cuyahoga County Court of Common Pleas against Defendants captioned *Latasha McLemore v. University Hospitals Health System, Inc., et al.*, Case No. CV-21-957468 ("State Court Action"). A true and correct copy of the Summons and Complaint are attached as Exhibit A to the Declaration of John W. Hofstetter ("Hofstetter Decl."), attached hereto as Exhibit 1.

2. On December 30, 2021, the Summons and Complaint were served on Schnupp and Lempke. (See Hofstetter Decl., Exhibit A). Thereafter, on January 3, 2022, the Summons and

Complaint were served on UH. (*Id.*). Accordingly, this Notice of Removal has been timely filed within the 30-day time period required under 28 U.S.C. § 1446(b).

3. Aside from the Complaint, no other pleadings have been filed by Plaintiff in the State Court Action, nor have there been any pleadings filed by Defendants in the State Court Action. (*See* Hofstetter Decl. at Exhibit B, Docket of State Court Action). Furthermore, to the best of Defendants' knowledge, no other proceedings have been conducted or scheduled in the State Court Action. Accordingly, by attaching the Complaint to this Notice of Removal, the requirements of 28 U.S.C. §1446(a) have been met.

4. Consistent with 28 USC §1446(2)(A), Defendants submit that they all consent to the removal of the State Court Action to the United States District Court for the Northern District of Ohio, Eastern Division.

5. Pursuant to 28 U.S.C. § 1441(a), venue of this action exists in this District Court because the Cuyahoga County Court of Common Pleas is located within the Northern District of Ohio, Eastern Division.

6. This is an action of a civil nature in which the district courts of the United States have been given original jurisdiction. Indeed, the action arises under the laws of the United States and invokes the federal question jurisdiction of this Court as provided in 28 U.S.C. §§1331 and 1441(a). More specifically, in Counts I and II of Plaintiff's Complaint, Plaintiff alleges that Defendants violated the Family and Medical Leave Act ("FMLA"), 29 U.S.C. § 2601, *et seq.* (Complaint Counts I-II, ¶¶ 57-72). Defendants deny that they violated the FMLA and deny that they acted in an unlawful fashion.

7. Thus, on its face, Plaintiff's Complaint asserts claims under the laws of the United States (the FMLA). As a result, this Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1331.

8. Accordingly, this action may be removed to this Court pursuant to original jurisdiction under 28 U.S.C. §§ 1331, 1441, and 1446.

9. As required by 28 U.S.C. §1446(d), Defendants will provide written notice of the filing of this Notice of Removal to Andrew D. Pappert, counsel of record for Plaintiff, and will promptly file a copy of this Notice of Removal with the Clerk for the Cuyahoga County Court of Common Pleas. A copy of Defendant's Notice of Filing Notice of Removal of Civil Action to United States District Court is attached hereto. (*See Exhibit C to Hofstetter Decl.*).

10. By filing the Notice of Removal, Defendants do not waive any objections they may have as to service, jurisdiction, or venue, or any other defenses available to them at law, in equity, or otherwise. Defendants intend no admission of fact or law by this Notice and expressly reserve all defenses and motions.

WHEREFORE, pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446, Defendants respectfully remove this case from the Cuyahoga County Court of Common Pleas to the United States District Court for the Northern District of Ohio.

Respectfully submitted,

/s/ James P. Smith

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CERTIFICATE OF SERVICE

I hereby certify that, on January 26, 2021, a copy of the foregoing *Notice of Removal of Civil Action to the United States District Court* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Additionally, a copy of the foregoing has been served upon counsel of record for Plaintiff, Andrew D. Pappert, via email delivery at drew.pappert@spitzlawfirm.com on January 26, 2022.

/s/ James P. Smith

James P. Smith

One of the Attorneys for Defendants